

Panaji, 4th April, 1996 (Chaitra 15, 1918)

SERIES I No. 1

OFFICIAL GAZETTE



GOVERNMENT OF GOA

NOTE: There are three Extraordinary issues to the Official Gazette, Series I No. 52 dated 28-3-96 as follows:

- 1) Extraordinary dated 29-3-1996 from pages 573 to 576 regarding Notification from Department of Legislative Affairs.
- 2) Extraordinary No. 2 dated 29-3-1996 from pages 577 to 580 regarding Notification from Department of Law and Judiciary (Legal Affairs Branch)
- 3) Extraordinary No. 3 dated 1-4-1996 from pages 581 to 582 regarding Notification from Department of Law and Judiciary (Establishment Branch)

GOVERNMENT OF GOA

Department of Legislative Affairs

Notification

LA/B/908/1994

The following Bill which was introduced in the Legislative Assembly of Goa on 28-3-96 is hereby published for general information in pursuance of the provisions of Rule-138 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

Panaji, 29th March, 1996.

The Goa State Commission for Women Bill, 1996

(Bill No. 4 of 1996)

A
BILL

to provide for the constitution of the Goa State Commission for Women to exercise the powers conferred on, and to perform the functions assigned to it on all matters concerning women in Goa and incidental thereto so as to improve the status of women in Goa.

Be it enacted by the Legislative Assembly of Goa in the Forty-seventh year of the Republic of India as follows:-

CHAPTER I Preliminary

1. Short title, extent and commencement.—(1) This Act may be called the Goa State Commission for Women Act, 1996.

(2) It extends to the whole of the State of Goa.

(3) It shall come into force on such date as the Government may, by notification in the Official Gazette, appoint.

2. Definitions.— In this Act, unless the context otherwise requires,—

(a) "Commission" means the Goa State Commission for Women constituted under section 4;

(b) "Member" means a member of the Commission and includes the Chairperson and the Member-Secretary;

(c) "National Commission for Women" means the National Commission for Women constituted under section 3 of the National Commission for Women Act, 1990 (Central Act 20 of 1990);

(d) "Official Gazette" means the Official Gazette of the Government of Goa;

(e) "Person" shall include a firm, company, corporation, association of persons or the Government and its agencies including agencies receiving aid from the Government;

(f) "Prescribed" means prescribed by rules made under this Act;

(g) "Public servant" means any person as defined in section 21 of the Indian Penal Code, 1860 (45 of 1860);

(h) "Registered" means registered under the Societies Registration Act, 1860 (Central Act 21 of 1860);

(i) "State" means the State of Goa;

(j) "State Government" means the State Government of Goa;

(k) "Women" includes female children and/or adolescent girls.

3. Application of other laws not barred.— Save as otherwise provided, the provisions of this Act shall be in addition to and not in derogation of, any other law for the time being in force, except to the extent the provisions of the other law are inconsistent with the provisions of this Act.

CHAPTER II The Commission

4. Constitution of the Commission.— (1) The State Government shall, by notification in the Official Gazette, constitute a body known as the "Goa State Commission for Women", to exercise the

powers conferred on and to perform the functions assigned to it, under this Act.

(2) The Commission shall consist of,—

(a) a Chairperson, who shall be an eminent woman committed to the cause of women, to be nominated by the State Government;

Provided that, before nominating the Chairperson, the State Government shall consult women's organisations within the State of Goa;

(b) not more than six non-official members, preferably women, to be nominated by the State Government from amongst persons of ability, integrity and standing who have served the cause of women or have sufficient knowledge and experience in law or legislation, trade unionism, management of an industry or organisation committed to increasing the employment potential of women, women's voluntary organisations (including women activists), administration, economic development, health, education or social welfare, provided that, at least one member shall be from amongst persons belonging to the Scheduled Castes or Scheduled Tribes or Other Backward Classes;

(c) any woman member elected by the Goa Legislative Assembly, from amongst its members;

(d) a Member-Secretary, to be nominated by the State Government who shall be an officer of the Civil Service of the State with appropriate experience, not below the rank of Joint Secretary in the Government.

5. Term of office and conditions of service of Chairperson and members.— (1) The Chairperson and every non-official member shall hold office for a period of three years provided that the member specified at clause (c) of sub-section (2) of section 4 shall cease to hold office as soon as she ceases to be a member of the State Legislative Assembly.

(2) The Chairperson or a non-official member may, at any time, by writing under her hand and addressed to the State Government, resign from the office of the Chairperson or the office of the member, as the case may be.

(3) Notwithstanding anything contained in sub-section (1), the State Government may remove a person from the office of the Chairperson or member, if that person —

(a) becomes an undischarged insolvent; or

(b) is convicted and sentenced to imprisonment for an offence which in the opinion of the State Government involved moral turpitude; or

(c) becomes of unsound mind and stands so declared by a competent Court; or

(d) refuses to act or becomes incapable of acting; or

(e) is, without obtaining leave of absence from the Commission, absent from three consecutive meetings of the Commission; or

(f) in the opinion of the State Government, has so abused the position of the Chairperson or member, as to render that person's continuance in office detrimental to the public interest or is otherwise unfit or unsuitable to continue as such Chairperson or member.

Provided that, no person shall be removed under this sub-section unless that person has been given a reasonable opportunity of being heard in the matter.

(4) A vacancy caused under sub-section (2) or (3) or in any other manner, shall be filled in within 30 days by a fresh nomination by the State Government and the person so nominated shall hold office for the remainder of the term of office of the person in whose vacancy such person has been nominated:

Provided that, if the vacancy of a member other than that of the Chairperson occurs within three months preceding the date on which the term of office of the member expires, the vacancy shall not be filled in.

(5) The honorarium, if any, and allowances payable to, and the other terms and conditions of holding the office of the Chairperson and the members shall be such as may be prescribed.

6. Officers and other employees of the Commission.— (1) The State Government shall provide the Commission with such officers and employees, as in the opinion of the State Government may be necessary for the efficient performance of the functions of the Commission under this Act.

(2) The salaries and allowances payable to, and other terms and conditions of service of the officers and other employees appointed for the purpose of the Commission shall be as may be prescribed.

7. Salaries and other allowances to be paid out of grants.— The honorarium and allowances payable to the Chairperson and members as well as the administrative expenses including salaries, allowances and pensions payable to the officers and other employees referred to in section 6 shall be paid out of the grants referred to in section 17.

8. Vacancies, etc., not to invalidate the proceedings of the Commission.— No act or proceeding of the Commission shall be questioned or shall be invalid on the ground merely of the existence of any vacancy in, or defect in the nomination of a person acting as the Chairperson or a member or any irregularity in the procedure of the Commission, including in issuing of notice of holding a meeting, not affecting merits of the matter.

9. Committees of the Commission.— (1) The Commission may appoint such committees as may be necessary for the efficient performance, exercise and discharge of its functions, powers and duties and also for dealing with such special issues as may be taken up by the Commission from time to time.

(2) The Commission shall have the power to appoint one or more persons, as it may think fit, on any Committee appointed

under sub-section (1), and such person or persons, who are not members of the Commission, shall have the right to attend the meetings of the committee and take part in the proceedings but shall not have the right to vote.

(3) The person so appointed shall be entitled to receive such allowances towards expenses for attending the meeting or any other task of the Committee, as may be prescribed.

(4) The Commission may invite any representative of the National Commission for Women to any of its meetings, or may associate with itself, in such manner and for such purposes as it may deem necessary, any person whose assistance or advice it may need in complying with any of the provisions of this Act or in carrying out its functions under this Act, and a person so invited or associated, shall have the right to take part in the discussions of the Commission relevant to the purpose for which such representative or person has been invited or associated, but shall not have the right to vote.

10. Procedure to be regulated by the Commission.— (1) The Commission or a Committee thereof shall meet at least once a month and as and when necessary and shall meet at such time and place, as the Chairperson may deem fit.

(2) The Commission shall regulate its own procedure and the procedure of the Committees thereof.

(3) All orders and decisions of the Commission shall be authenticated by the Member-Secretary in this behalf.

CHAPTER III

Functions and Powers of the Commission

11. Functions of Commission.— (1) The Commission shall perform all or any of the following functions, namely:—

(a) investigate, examine and recommend course of action on all matters relating to the provisions for women under the Constitution and other laws;

(b) present to the State Government annually and at such other times, as the Commission may deem fit, reports about the functioning of the Commission;

(c) make in such reports recommendations for the effective implementation of the provisions of law for improving the conditions of women in the State;

(d) review, from time to time, the existing provisions of the Constitution and other laws affecting women and recommend amendments thereto so as to suggest remedial legislative measures to meet any lacunae, inadequacies, or shortcomings in such legislation;

(e) take up cases of violations of the provisions of the Constitution and of other laws relating to women with the State Government, or appropriate authorities;

(f) entertain complaints and take suo motu notice of matters relating to—

(i) deprivation of women's rights;

(ii) non-implementation of law, protection to women and also to ensure the objective of equality and development;

(iii) non-compliance of policy decisions, instructions aimed at mitigating hardships, lines or welfare and providing relief to women, and sur-up the issues arising out of such matters with the State Government or appropriate authorities;

(g) render guidance and advice to needy women in instituting proceedings in any judicial forum or tribunal for violation of Constitutional provisions or any other laws relating to women;

(h) call for special studies or investigation into specific problems or situations arising out of discrimination and atrocities committed against women and identify the constraints so as to recommend strategies for their removal;

(i) undertake promotional and educational research so as to suggest ways of—

(i) ensuring due representation to women in all spheres,

(ii) identifying factors responsible for impeding their advancement, such as, lack of access to education and basic services, inadequate support service, and

(iii) developing technologies for reducing drudgery and health hazards as well as for increasing their efficiency;

(j) participate and advice on any planning process to ensure the socio-economic development of women;

(k) evaluate the progress of the development of women in the State;

(l) inspect or cause to be inspected a jail, remand home, women's institutions or other places of custody where women are kept as prisoners or otherwise with or without prior intimation to the authorities and take up with the concerned authorities such matters for remedial action as found necessary;

(m) attend and with the permission of the concerned Court or Lok Adalat have a right of audience before such Court or Lok Adalat in any case or any question involving the protection of rights of women including in-camera trials by any Court, within the State;

(n) fund litigation and assist in filing police complaints involving issues affecting a larger body of women or the interpretation of any provision of the Constitution or any other law affecting women, and recommend to the State Government every six months, reports relating to such matter;

(o) make periodical reports to the State Government in any matter pertaining to women and, in particular various difficulties under which women toil;

(p) co-operate with and assist and seek co-operation and assistance of the National Commission for Women and other Commissions for Women set up by different State Governments and also the Commission for Scheduled Castes and Scheduled Tribes and Minorities Commission;

frame Schemes for the consideration of the State Government or any other appropriate authority for more effective implementation of this Act and in particular, frame for more effective implementation of laws relating to payment of maintenance to deserted women; payment of minimum wages; ensuring equal pay for equal work; housing and shelter for women; prevention of violence, physical, mental, emotional, sexual, at home, at work and all places; prevention of illegal trafficking in women; improvement of the health; and ensuring safety as well as legal aid for women;

(r) any other matter which may be referred to it by the State Government or by the National Commission for Women.

(2) The Commission shall, while investigating any matter referred to in clause (a) or sub-clause (i) and (ii) of clause (f) of sub-section (1), have all the powers of a Civil Court trying a suit, in respect of the following matters, namely:-

(a) summoning and enforcing the attendance of any person, including a public servant from any part in the country and examining him/her on oath;

(b) requiring the discovery and production of any document;

(c) receiving evidence on affidavits;

(d) requisitioning any public record or copy thereof from any Court or public office;

(e) issuing commissions for the examination of witnesses and documents; and

(f) any other matter which may be prescribed.

(3) Any proceedings before the Commission shall be deemed to be a judicial proceedings within the meaning of sections 193 and 228 of the Indian Penal Code, 1860 (45 of 1860) and the Commission shall be deemed to be a Court for the purpose of section 195 of the Code of Criminal Procedure, 1973 (2 of 1974).

(4) (a) On any investigation mentioned in clause (a) or sub-clause (i) and (ii) of clause (f) of sub-section (1) being completed, the Commission may institute legal proceedings or prosecution in the matter and on being satisfied that it is necessary, in its opinion, appoint a counsel or special prosecutor, to do so.

(b) The appropriate authority, as the case may be, shall communicate in writing to the Commission, from time to time, the progress of any such legal proceeding or prosecution filed on the recommendation of the Commission.

(5) The appropriate authority, shall not recommend for withdrawal of any such case or proceedings instituted under sub-section (4) without the prior consultation in writing, with the Commission.

12. Government to consult Commission.— The State Government shall consult the Commission on all major policy matters affecting women.

13. Power of the Commission to utilize the services of certain officers and investigating agencies for conducting investigation.— (1) The Commission may, for the purpose of conducting investigations under this Act, utilize the services of:-

(a) any officer or investigating agency of the State or the Central Government with the concurrence of that Government; or

(b) any other person.

(2) For the purpose of conducting an investigation, any officer or agency referred to in clause (a) of sub-section (1) may, subject to the direction and control of the Commission,-

(a) summon and enforce the attendance of any person and examine him/her;

(b) require the discovery and production of any document; and

(c) requisition any public record or copy thereof from any office.

(3) Such officer or agency or person shall investigate into the matter as directed by the Commission and submit a report thereon within the time as may be specified by the Commission.

(4) The Commission shall satisfy itself about the correctness of the facts stated and the conclusions, if any, arrived at in the investigation report submitted to it under sub-section (3), and for this purpose the Commission may make such inquiry including the examination of the person or persons who conducted or assisted in the investigation, as it thinks fit.

14. Statement made by persons to Commission.— No statement made by a person in the course of giving evidence before the Commission or an officer or agency, referred to in clause (a) or the person appointed under clause (b) of sub-section (1) of section 13, shall subject him/her to, or be used against him/her in any civil and/or criminal proceeding except a prosecution for giving false evidence by such statement:

Provided that the statement is made in reply to a question which is required by the Commission or such officer or agency or such person to be answered and is relevant to the subject matter under investigation.

15. Registration of registered voluntary organisations and seeking their assistance.— (1) Any registered voluntary organisation for women within the State may seek registration with the Commission for the purpose of this Act. The Commission may

after satisfying itself in the manner deemed fit by the Commission about the value and role of such organisation in the society, include the name of such organisation in its register as may be prescribed.

(2) The Commission may maintain a register of registered voluntary organisations within the State and particularly women's organisations whose assistance it may seek in the discharge of its functions.

(3) A list of such organisations registered with the Commission shall be made available to any Court or authority or, on request, to the members of the general public.

(4) If for any reasons, to be recorded in writing, the Commission deems it fit to cancel the name of any organisation from its register, it may do so, after giving such organisation a reasonable opportunity of being heard.

(5) The decision of the Commission about such cancellation shall be final.

16. Prosecution of act done in good faith.— No prosecution or other legal proceedings shall lie against any member of the Commission or any officer or other employee of the Commission or any person acting under directions, either of the State Government or the Commission, in respect of anything which is in good faith done or intended to be done in pursuance of this Act or any rules or orders made thereunder.

CHAPTER IV

Finance, Audit and Accounts

17. Grants by State Government.— (1) The State Government shall, after due appropriation made by the State Legislature by law in this behalf, pay to the Commission by way of grants from the Consolidated Fund of the State, such sums of money as the State Government may think fit for being utilised for the purpose of this Act.

(2) The Commission may incur such expenditure as it thinks fit for performing the functions under this Act, and such sums of money shall be treated as expenditure payable out of the grants referred to in sub-section (1).

18. Accounts and Audit.— (1) The Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the State Government in consultation with the Director of Accounts of the State.

(2) The annual accounts of the Commission shall be audited by the Director of Accounts of the State at such interval as may be prescribed by him and any expenditure incurred in connection with such audit shall be borne by the Commission to the Director of Accounts of the State.

(3) The Director of Accounts of the State or any person appointed by him in connection with the audit of the accounts of the Commission under this Act, shall have the same rights and

privileges and the authority in connection with such audit of the Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Commission.

(4) The accounts of the Commission, as certified by the Director of Accounts of the State or any other person duly appointed or authorised by him in this behalf, together with the audit thereon shall be forwarded annually to the State Government and the Commission.

19. Annual Report.— The Commission shall prepare, in such form and at such time of each financial year as may be prescribed, its annual report, giving a full account of its activities during the previous financial year and forward a copy thereof to the State Government.

20. Accounts and other reports and audit report to be laid before State Legislature.— The State Government shall cause the annual report and all the reports under clauses (b), (n) and (o) of sub-section (1) of section 11 together with the memorandum of action taken or proposed to be taken on the recommendations contained therein, in so far as they relate to the State Government and the reasons for the non-acceptance, if any, of such recommendations, and the audit report to be laid as soon as may be after the reports are received, before the State Legislature.

CHAPTER V Miscellaneous

21. The Chairperson, members, etc. to be public servants.— The Chairperson, members, officers and other employees of the Commission shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, 1860 (45 of 1860).

22. Power to make rules.— The State Government may, by notification in the Official Gazette and subject to the condition of previous publication, make rules for carrying out the provisions of this Act. Such rules may provide for charging of fees for any of the purposes of this Act.

23. Power to remove difficulty.— If any difficulty arises in giving effect to any of the provisions of this Act, the State Government may, by order published in the Official Gazette, make provisions, not inconsistent with the provisions of this Act, as appears to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made after the expiry of a period of three years from the date of commencement of this Act.

Statement of Objects and Reasons

The women population in Goa is approximately 5,75,059 out of which half of the women population is illiterate. Many women are of working class in Government Offices/public sectors as well as in private sectors. They are being exploited by their officers and private employers. In most of the villages, social conditions of women is deplorable and no authority is in a position to regulate as there is no suitable legislation to that effect. This will therefore regulate the improvement of social condition of women community in Goa so as to ensure in helping to uplift, develop and also to look after the welfare and promoting the interest of women community.

This Bill seeks to achieve the above objects.

Financial Memorandum

Under the Bill, the expenditure of approximately Rs. 10.00 lakhs per annum will be required on account of payment of salaries and allowances for the staff of the Commission, including transportation and accommodation for the officers of the Commission.

Memorandum Regarding Delegated Legislation

Sub-Clause (3) of clause 1 of the Bill empowers the Government to bring the Act into force on such date as the Government may by notification in the Official Gazette, appoint.

Clause 22 of the Bill also empowers the Government to make rules for the purpose of carrying into effect the provisions of this Act, by notification in the Official Gazette.

This delegated legislation is of normal character.

Panaji,
25th March, 1996

CHANDRAKANT CHODANKAR
Minister for Social Welfare

Assembly Hall,
27th March, 1996

ASHOK B. ULMAN
Secretary to the Legislative
Assembly of Goa

Governor's recommendation under Article 207 of the Constitution.

In pursuance of Article 207 of the Constitution, the Governor of Goa has recommended to Legislative Assembly of Goa, the introduction and consideration of the Goa State Commission for Women Bill, 1996.